

RICHARDS, LAYTON & FINGER

A PROFESSIONAL ASSOCIATION

ONE RODNEY SQUARE

920 NORTH KING STREET

WILMINGTON, DELAWARE 19801

(302) 651-7700

FAX: (302) 651-7701

WWW.RLF.COM

DIRECT DIAL NUMBER

302-651-7592

FINEMAN@RLF.COM

STEVEN J. FINEMAN

April 5, 2007

BY ELECTRONIC FILING

The Honorable Gregory M. Sleet
United States District Court
District of Delaware
844 King Street
J. Caleb Boggs Federal Building
Lockbox 19
Wilmington, DE 19801

Re: Estate of Harry Smith, III, et al. v. John Ciritella, et al.,
C.A. No. 04-1254-GMS

Dear Judge Sleet:

I write with respect to the preliminary jury instructions submitted by Plaintiffs this afternoon. Defendants do not seek to delete any of the language presently contained in the preliminary jury instructions, but Defendants contend that the preliminary instructions are incomplete and require additional language to address what Plaintiffs must prove at trial. Plaintiffs were not willing to include a bolded section reflecting Defendants' proposed additional language; as a result, Defendants' proposed preliminary jury instructions are enclosed herewith. The bold reflects Defendants' proposed addition. The only difference between Defendants' proposal and the version submitted by Plaintiffs earlier this afternoon is the addition of certain language in the Summary of Applicable Law. The source of this language is the Third Circuit Pattern Jury Instructions (4.1, 4.3, 4.9.1). Without the inclusion of this language, the jury will have no understanding of what Plaintiffs must prove at trial. For this reason, Defendants respectfully request that the Court use the enclosed preliminary jury instructions.

If Your Honor should have any questions or concerns, undersigned counsel remains available at the Court's convenience.

Respectfully submitted,



Steven J. Fineman (#4025)

SJF/III

Enclosure

cc: Kester I.H. Crosse, Esquire (w/e) (By Hand Delivery)
Anne T. Sulton, Esquire (By Electronic Mail)